



Federal Communications Commission
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Re: Application for Renewal of License
Station KLRT-TV, Little Rock, Arkansas
File No. BRCT-20050201BJM
Facility ID No. 11951

Mr. Meli and Counsel:

On May 3, 2005, Chad Meli filed a pleading styled as a formal petition to deny opposing the license renewal of the Fox Network affiliate station KLRT-TV, Little Rock, Arkansas, licensed to Clear Channel Broadcasting Licenses, Inc. ("Clear Channel").¹ On November 5, 2007, Clear Channel filed a Response to Petition to Deny addressing certain allegations raised in the petition. For the reasons set forth below, we deny the petition to deny.

Section 309(k)(1) of the Communications Act of 1934 (the "Act") states that the Commission shall grant a license renewal application if it finds, with respect to that station, that (a) the station has served the public interest, convenience, and necessity; (b) there have been no serious violations by the licensee of the Communications Act or Commission rules and regulations; and (c) there have been no other violations by the licensee of this Act or the rules or regulations of the Commission which, taken together, would constitute a pattern of abuse.² With respect to whether grant will serve the public interest, the Commission will designate a hearing pursuant to Section 309(d)(1) of the Act if (a) the petitioner provides specific allegations of fact sufficient to show that such a grant would be prima facie inconsistent with the public interest;³

¹ We do not need to reach the issue of standing in this case since we will exercise our discretion pursuant to section 73.3587 of the Commission's rules and address the arguments raised by Mr. Meli. 47 C.F.R. §73.3587.

² 47 U.S.C. §309(k)(1).

³ 47 U.S.C. §309(d)(1); *Astroline Communications Co. Ltd. Partnership v. FCC*, 857 F.2d 1556 (D.C. Cir. 1988) ("Astroline").

and (b) the allegations, taken together with any opposing evidence before the Commission, raise a substantial and material question of fact as to whether grant would serve the public interest.⁴

Mr. Meli requests that the above-captioned license renewal application not be granted until certain indecency complaints involving the December 10, 2003, airing of the *Billboard Music Awards* and the March 24, 2004, airing of *That 70's Show* filed by residents in station KLRT-TV's market have been adjudicated.⁵ Mr. Meli contends that, if the Commission cannot adjudicate these two complaints before granting the license renewal, "then KLRT should be issued a temporary license until the FCC is able to determine whether or not KLRT is meeting its public interest requirements."⁶

The allegations involving the 2003 airing of the *Billboard Music Awards* were adjudicated subsequent to filing of the instant petition.⁷ On November 6, 2006, the Commission released a *Remand Order* reconsidering a March 15, 2006, *Omnibus Order* that addressed numerous pending indecency complaints. In the November 2006 *Remand Order*, the Commission found that the 2003 airing of the *Billboard Music Awards* was actionably indecent and profane, but stated that it would "not require the licensees of any of the stations that broadcast the material to report [the Commission's] finding as part of their renewal applications, and [would] not consider the broadcast to have an adverse impact upon such licensees as part of the renewal process or in any other context."⁸

Complaints concerning the March 24, 2004, airing of *That 70's Show* are pending. On March 12, 2007, the Commission entered into an agreement with Clear Channel Communications, Inc., to toll the statute of limitations set forth in section 503(b)(6)(A) of the Act,⁹ thereby preserving the Commission's ability to issue a notice of apparent liability for forfeiture should the Commission find that the complained-of programming apparently violated the indecency prohibition set forth in the Act and the Commission's rules.¹⁰ We conclude that Mr. Meli's petition does not allege violations concerning the March 24, 2004, airing of *That 70's Show* that, if proven, would raise substantial and material questions of fact concerning Clear Channel's qualifications, or would otherwise justify designation of the station KLRT-TV license renewal application for hearing pursuant to section 309(k) of the Act.

⁴ *Astroline*, 857 F.2d at 1561.

⁵ *Petition to Deny*, at 1. While Mr. Meli maintains that the renewal application should not be granted until the Commission adjudicates all indecency complaints involving station KLRT-TV, he does not state whether such complaints involve broadcasts other than the two specifically mentioned in the petition.

⁶ *Id.* at 4.

⁷ *In the Matter of Complaints Regarding Various Television Broadcasts Between February 2, 2002, and March 8, 2005*, 21 FCC Rcd 2664 (2006) ("*Omnibus Order*"), vacated and modified in part, 21 FCC Rcd 13299 (2006), vacated and remanded, *Fox Television Stations, Inc. v. Federal Communications Commission*, 489 F.3d 444 (2nd Cir June 4, 2007), *pet. for cert. pending* (07-582, Nov. 1, 2007).

⁸ *Remand Order*, 21 FCC Rcd at 13321. The Commission's order was vacated and remanded for further explanation of the Commission's new approach to indecency and profanity regulation. See *Fox Television Stations, Inc. v. Federal Communications Commission*, note 7 *supra*.

⁹ 47 U.S.C. § 503(b)(6)(a).

¹⁰ See 18 U.S.C. § 1464.

Finally, Mr. Meli states that, “upon visiting the station on April 28th, I found that [station KLRT-TV] was not compliant with section 73.3526” of the Commission’s rules since the “complaint file in question at the offices of [station KLRT-TV] was empty.”¹¹ Clear Channel responds that station KLRT-TV’s “Letters and E-Mails From the Public” section of its public inspection file was not empty, and that it contained correspondence from members of the Parents Television Council, some of which addressed the material at issue in the instant petition.¹² Clear Channel notes that the Commission’s rules do not mandate that public correspondence be placed in a particular portion of the public inspection file.¹³ Clear Channel further states that the Commission never advised Clear Channel of any pending investigation into the 2003 *Billboard Music Awards* show via a letter or inquiry or other official correspondence, and that the Commission has yet to act with respect to the complaints addressing the particular episode of *That 70’s Show* in question.¹⁴

Section 73.3526(e)(9) of the Commission’s rules requires that licensees retain all “written comments and suggestions received from the public regarding operation of the station,” and Section 73.3526(e)(10) of the Commission’s rules requires licensees to retain all material “having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant, permittee, or *licensee has been advised*.”¹⁵ Clear Channel is correct that the Commission’s rules do not require a licensee to retain communications from the public in a specific location within the public inspection file. Given that Mr. Meli only alleges that the “complaint file” portion of the public inspection file was empty, it appears that the portion of the public inspection file reviewed by Mr. Meli involved pending Commission investigations, not public correspondence. We conclude that Mr. Meli has failed to raise a substantial and material question of fact regarding a potential violation of Section 73.3526(e)(9). Based on the record before us, we also conclude that Mr. Meli has failed to raise a substantial and material question of fact as to whether Clear Channel, the specific licensee of station KLRT-TV, has been advised by the Commission of any pending investigations involving the 2003 *Billboard Music Awards* show or the episode of *That 70’s Show* in question.¹⁶ As noted by Clear Channel, a letter of inquiry regarding the 2003 *Billboard Music Awards* show was sent to Fox Television Stations, Inc., the ultimate parent of certain owned-and-operated Fox Television Network affiliates.

¹¹ *Petition to Deny*, at 1.

¹² *Response to Petition to Deny*, at 2.

¹³ *Id.* at 3.

¹⁴ *Id.* at 2.

¹⁵ 47 C.F.R. § 73.3526(e)(9) and (10) (emphasis added).

¹⁶ See Letter from William D. Freedman, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, to Fox Television Stations, Inc., dated January 7, 2004.

Accordingly, it is ordered that the petition to deny filed by Chad Meli **IS DENIED**.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau